



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,245	02/26/2002	Daniel E. Ford	10014526-1	3479

7590

10/28/2005

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

SWEARINGEN, JEFFREY R

ART UNIT

PAPER NUMBER

2145

DATE MAILED: 10/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/082,245

Applicant(s)

FORD ET AL

Examiner

Jeffrey R. Swearingen

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-10,24-26 and 33-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-10,24-26 and 33-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/28/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The Examiner appreciates Applicant pointing out the reference to Figure 5, item 516 in the specification. The Examiner further appreciates Applicant's resubmission of Figure 3, as the electronic copy that the Examiner reviewed did not have the dotted lines present. The objection to the drawings is hereby withdrawn.

Specification

2. The Examiner has withdrawn the objection to the specification based on the removal of the embedded hyperlinks.

Response to Arguments

3. Applicant's arguments with respect to the 112 1st paragraph rejection of claim 24 (27 and 30 being cancelled by Applicant) is hereby withdrawn.

4. Applicant's arguments and amendments have overcome the rejections under 35 U.S.C. 101.

5. Applicant's arguments do not overcome the rejection under 35 U.S.C. 112 2nd based on *Ex parte Lyell* and further review of the claims by the Office.

6. Applicant's arguments pertaining to the 112 2nd rejections of the terms *remote*, *remotely*, *local*, and *locally* are persuasive. However, in regard to claims 8 and 35, the Examiner has no standard to ascertain the "remoteness" of the remote logger.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 2145

8. Claims 8, 24, and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Claims 8 and 35 recite the term "remoteness". The term "remoteness" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonable apprised of the scope of the invention. The Examiner is unclear at what point the remote logger would meet the "remoteness" requirement in order to necessitate inclusion of a storage area network within the communication path.

10. Claim 24 is directed toward more than one statutory class of invention. No basis exists for permitting combination of two separate and distinct classes of invention in a single claim. *Ex parte Lyell*, 17 USPQ2d 1548. Further, no structure is stated to define the metes and bounds of what Applicant terms an "apparatus".

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1, 4-10, 24-25, and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown (U.S. Patent No. 5,857,190).

13. In regard to claim 1, Brown discloses *receiving a notice of locally-originated loggable information* and logging said information as shown in Brown, Figures 2 and 4, column 2, lines 36-56, and column 2, lines 59-66. Brown discloses selectively making an entry in a log, as shown in column 5, lines 25-29 and lines 43-50. Brown discloses selectively making an entry in a remote log according to a separate criterion in column 7, lines 62-67 (based on reporting at specified times or when a selected number of events have

Art Unit: 2145

been recorded therein). Brown discloses logging, but fails to explicitly disclose that logging can be performed locally. Brown does state that the components of the event system can be distributed over the entertainment network system (column 7, lines 32-33), the events can be forwarded to an alternate location (column 7, lines 46-53), a locally-based event evaluator for screening the events (column 5, lines 43-45), and that the operator can configure where the events are actually logged (column 5, lines 37-40). Since Brown has given both motivation for alternate logging (flexibility in resource allocation, column 5, lines 39-40) and the ability to configure where the events are logged (column 5, lines 37-40), it would be obvious to one of ordinary skill in the art to include local logging capability within Brown to allow for backup storage of events and to allow storage of events in case of a lost connection with a remote logging service.

14. In regard to claim 4, Brown is applied as in claim 1. Brown logs events in the remote log based on the number of events (criterion having been satisfied) received by an event buffer, which is different from determining whether an item is "loggable" in the Brown invention. See Brown, column 7, lines 62-67. This is *selectively making an entry in a remote log contingent upon said first criterion having been satisfied*.

15. In regard to claim 5, Brown is applied as in claim 1. Brown further discloses *wherein said first criterion and said second criterion are respective levels of information priority*. The first criterion in Brown as shown in claim 1 is determining whether an event is "loggable". The second criterion in Brown is based upon when the event occurred and how many events have occurred since the last batch remote logging. These are *respective levels of information priority*.

16. In regard to claims 6-7, Brown is applied as in claim 5. Brown fails to disclose assigning numbers in a certain fashion to priority level information and using those numbers with predetermined values in order to filter events. However, Brown does disclose assigning numbers to priority level information and using that number to partition events so the administrator can "selectively determine the level of events that are reported" in column 6, lines 25-33. It would have been obvious to one of ordinary skill in the art to assign numbers in any way to priority levels and use them to filter information using any method,

Art Unit: 2145

because assigning numbers in any specific order and deciding which ones in a group to select based upon their number is basic mathematics.

17. In regard to claim 8, Brown is applied as in claim 1. Brown further discloses use of a storage area network, as illustrated in the usage of "distribution network" in the abstract, Figure 1, and the descriptions given in column 3, lines 7-44 and column 4, lines 8-11.

18. In regard to claim 9, Brown is applied as in claim 1. Brown further discloses *said first criterion is a level of information priority*. See Brown, column 5, line 43 – column 6, line 33.

19. Claim 10 meets the same limitations of claims 1 and 4, and their rejections are likewise applicable against claim 10.

20. Claim 24 meets the same limitations of claim 1, and the rejection of claim 1 is likewise applied against claim 24.

21. Claim 25 meets the same limitations of claim 1, and the rejection of claim 1 is likewise applied against claim 25.

22. Claim 33 meets the same limitations of claim 4, and the rejection of claim 1 is applied against claim 33.

23. Claim 34 meets the same limitations of claim 5, and the rejection of claim 5 is applied against claim 34.

24. Claim 35 meets the same limitations of claim 8, and the rejection of claim 8 is applied against claim 35.

25. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Nemitz (U.S. Patent No. 6,381,712).

26. In regard to claim 26, Brown is applied as in claim 25. Brown fails to disclose the use of JINI or JCORE distributed computing technology. However, Nemitz discloses the use of JINI for error detection. See Nemitz, column 3, lines 13-48. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brown with Nemitz for the purpose of avoiding drivers and connection procedure and adding devices freely to a self-managing network (Nemitz, column 3, lines 13-21). Brown

Art Unit: 2145

gives motivation for the combination by stating that in order for remote logging to occur, computers must know what devices are going to log events. (Brown, column 2, lines 1-7). By adding a device without connection procedures, but rather by using JINI, Brown would easily be able to detect other devices on the network. The art is analogous because both Brown and Nemitz deal with error detection and notification.

Conclusion

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bauer, Mick. "Paranoid Penguin: syslog Configuration." Linux Journal. Volume 2001, issue 92 (December 2001). Page 10.

Prince, Robert et al. "The design of an interactive online help desk in the Alexandria Digital Library." Proceedings of the international joint conference on Work activities coordination and collaboration. San Francisco, CA. ACM Press. 1999. 217-226.

Tokuda, H. et al. "ARTS : a distributed real-time kernel." ACM SIGOPS Operating Systems Review. ACM Press. New York, NY. 1989. Volume 23, Issue 3. July 1989. 29-53.

28. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 2145

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JASON CARDONE
SPE AU 2145